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IN THE MATTER of the Public Inquiries Act,
R.S.A. 1970 and amendments thereto

AND IN THE MATTER of the Public Inquiry by
A.M. Harradence, Q.C., pursuant to Order in
Council 1295/73 dated August 21, 1973 into
the alleged use of excessive force by
Correctional Officers upon inmates of the
Calgary Correctional Institution during the
evening of July 17, 1973 and any other
similar instances.

RECEIVED

In the office of
THE ATTORNEY GENERAL

PUBLIC INQUIRY

Proceedings taken in the Club Room at the
Jubilee Auditorium, Calgary, Alberta, com-
mencing on the 1st day of October A.D. 1973.

Volume II

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APPEARANCES:

J.P. Peacock, Esq.,	Appeared for the Commission
W.V. Stilwell, Esq.,	Appeared for the Alberta Civil Association and Assistant Deputy Warden Schlegel
I.M. Robison, Esq.,)	
G.R. Meurin, Esq.,)	Appeared for Warden Jackson,
G.S. Griffiths, Esq.)	Deputy Warden Stanton, Assistant Deputy Merriam, Assistant Deputy Elliot, and Assistant Deputy McMeekin
L.W. Scott, Esq.,)	
A.W. Macdonald, Jr., Esq.,)	Appeared for the Inmates
V. McDonnell, Esq.,	Clerk of the Public Inquiry
B.G. Goulden, (Mrs.),)	
B.B. Loomis, Esq.,)	
W.A. Sherbinin, Esq.,)	
M.J. Stevens, (Mrs.))	Official Court Reporters
J.J. Cloarec, (Miss),)	
J.M. Brewster, Esq.,)	

I N D E X

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DEPOSITIONS TAKEN AT 2:00 PM 4 OCTOBER 1973:

MR. PEACOCK: Recall Warden Jackson.

MR. MEURIN: If I might interrupt at this point.

I am appearing as Counsel for Warden Jackson, for the Deputy Warden Stanton, Assistant Deputy Wardens Merriam, Elliot and McMeekin before this Hearing.

THE COMMISSIONER: Thank you Mr. Meurin.

MR. PEACOCK: I wonder sir, if the record will show -- I don't know if Mr. Robison who was here on Monday but it should probably show Mr. Robison was here when we reconvened for Warden Jackson's evidence. He represents Warden Jackson.

THE COMMISSIONER: I am sure the record will show that.

MR. STILWELL: I would like to point out that Mr. John Schlegel is an Assistant Deputy Warden. He is, he is not actually a member of the Association which I am retained by but I am retained to represent him so now all the Assistant Deputies are represented.

THE COMMISSIONER: Thank you Mr. Stilwell.

Now, I cannot give you WARDEN JAMES FRANCIS JACKSON, having previously been duly sworn, examined by Mr. Peacock, testified as follows:

Q MR. PEACOCK: Warden Jackson, you are still under oath?

Q Now, sir.

Q I wonder if I can ask two more Monday questions before we go ahead.

Q You will notice on the board we have three maps posted, the first map shown to you is the general plan of the main floor of the Calgary Correctional Institute marked as Exhibit 3. I wonder if you can tell us what the other two maps are and just briefly describe what they represent?

A Yes, this is the main floor of the main cell block and this is the -- these are the detention cells, if you will.

Q Are those the cells that are described as the meditation cells?

A Right, one side only is in use.

Q Now, are those meditation cells on the "A", "B", or "C" level?

A They are on "C" level, on the basement level, if you will.

Q Does that map clearly depict the two levels or is that a representation of the "C" level only?

A Now, I cannot give you the right answer to that, I don't even know which range this is, it's just cells so I am not in a position to give you the exact answer on that.

Q We will get to that later. The bottom one is clearly

the map of the "C" range?

There is stairs down from the main floor, here.

And those items that you are just pointing to now on the bottom right hand corner?

A Yes.

Q They are the meditation cells?

A That's right.

Q Perhaps we can have that map marked as Exhibit, I think that is Exhibit 41; sir.

EXHIBIT 41 - MAP AS
DESCRIBED

Q MR. PEACOCK: Now, the map above that that you are looking at now, correct me if I am wrong, but I believe that is a floor plan of the cells beneath the guardroom?

A That is right.

Q And that is where the cells known as the womens' cells and the mens' cells are located?

A Right.

Q That is not used as the meditation centre?

A It is used as a segregation unit for a specific type.

Q As an ordinary cell block?

A Right.

Q And what are the types again?

A Well, those people who are either the victims or possible victims of discrimination by inmates by

reason of the nature of their charges or people who cannot normally live in the other areas of the gaol because of their own conduct or whatever it might be.

Q So they are put there for their own protection or the protection of others?

A That is correct.

Q May that be marked?

THE COMMISSIONER: Warden Jackson, is this also used for persons who are charged and arraigned in the lower Courts?

A They are generally kept down there. Those were the only detention cells that we had originally.

THE COMMISSIONER: Thank you.

EXHIBIT 42 - MAP AS
DESCRIBED

Q MR. PEACOCK: Now, when we adjourned on Monday we were discussing the question you had raised about outside influence that was causing difficulty in the operation of your prison, in the operation of the Institution, I believe this had come up in the context relating to the morale of the staff and I believe you had mentioned there was this outside influence and we left it on the basis that if you were asked to identify the outside influence that you had discussed, would you do so now?

I will do so if the Court will allow my Counsel to lead me in these matters.

THE COMMISSIONER: I have no objection Mr. Peacock?

MR. PEACOCK: I have no objection.

CROSS-EXAMINATION BY MR. MEURIN:

Q MR. MEURIN: I take it Warden Jackson that you are prepared to name sources of outside pressure?

A Yes.

Q Could you give us an example of that?

A I would like to, if I may preference any identification as such by a general comment that there is, I think, in the community as a whole an air of restlessness, an area of revolt against authority in general whatever form that authority may take.

It is not peculiar to Calgary or peculiar to Canada, it's in the United States, it's in Europe outside of the gaols and also spilling over into the gaols and I think this is one area that I should comment on as a morale destroying factor that the people in authority whether they are gaol officers, police officers, school teachers or parents are wondering how long and how far they can sustain an area of authority.

Q Sir, can you give us any example of where this kind

of philosophy is placed upon the prison authorities?

A Yes, I think I can particularize that in the United States there is a penal press publishing papers which contain matters of, I would perhaps describe it as a revolutionary nature criticizing administration of gaols and this is coming through the mails into Canada and no doubt is an influencing factor.

Q Do these foreign papers or whatever they may be coming into your Institution?

A Definitely, yes.

Q And they are available to the inmates?

A Generally they are available.

Q You do not censor them or restrict their delivery?

A No sir. If I may also at this point mention again and again I am not particularizing, I don't want the press to consider that I am criticizing our own press in any way shape or form but I am speaking of the press generally.

Any publication relating to gaols, penitentiaries or correctional institutions as a rule contains only negative, what shall I say, the information regarding riots, disturbances, sit-down strikes, brutality these hit the headlines.

The good things that happen in the Institutions and gaols rarely get any publicity as to what is being done to try and help the

prisoners by staff in general. These papers are read by the staff and this in itself is a morale destroying factor.

Q I take it sir to summarize is that your staff would be subject to the negative aspects and receive little by way of praise from the press?

A I believe this is a correct statement and I would like to add, and this again is material to the point under discussion at this time, that the very nature of the work itself can be soul-destroying either in Calgary or Fort Saskatchewan or any penitentiary or prison you would like to name across the country the very fact that you are dealing with the losers, if you will, the failers of society and dealing with the daily problems and dealing with the psychopaths, dealing with the convicts, dealing with the negative of life I think on a day to day basis and over a period of years is bound to effect a man's morale.

Q Sir, do you have any other instances of your staff or your Institution being subjected to outside pressure?

A Yes, we have. Again I want to say that whatever I say will not be taken as criticism of any organization as such but we have had one reputed worker, I believe, from the John Howard Society in Calgary

visiting the gaol on a regular basis for the purpose of, as I understood it, to help the men in their pre-release planning, to help them with their personal problems, to help them with their families where necessary but I gather from a radio report that he was also taking statements regarding alleged incidences, he was taking statements, one-sided statements if I might add, from prisoners only and those statements I believe, and I have some evidence to support that were taken out of the Institution.

Q Sir, I will get to that in a minute. I would like to refer you to Article 31 of the Regulations under the Corrections Act which I believe has been entered as an exhibit.

MR. PEACOCK: 29 under the Regulations Act.

Q MR. MEURIN: Yes, the Regulations under the Corrections Act, would you read that particular regulation?

A Article 31:

"The Chief Executive Officer shall not permit any inmate to be photographed, sketched or interviewed for the purposes of publication unless authorized by the Minister or the Director in writing."

Q Sir, I am also showing you a document, I wonder if you could look at it and see if you can identify that

document, sir?

This document, sir, it is -- I will read the attachment:

"This is a verbatim transcript of a news comment broadcast day on CKXL in Calgary. Equal time is offered to a qualified spokesman of the opposing viewpoint signed Murray Dale, News Director",

the date of Friday August 3rd, 1973.

Q Sir, could you refer to the second paragraph of that news comment?

A Do you wish me to read this?

Q Yes.

A "The John Howard Society, meanwhile, has interviewed several witnesses to the beatings, and on the basis of a long report from one of its social workers, has called for an investigation by an outside authority. I have not been privy to that four-page report, but I might be, if Warden Jackson and provincial prison authorities do not call for a full investigation, following the internal inquiry."

Q Might that be entered as an exhibit, sir.

THE COMMISSIONER: Yes.

THE CLERK: 43.

EXHIBIT 43 - NEWS COMMENT
AS DESCRIBED

Q MR. MEURIN: Sir, is a broadcast of that nature broadcast in the Institution?

A CKXL is one of the popular stations within the Institution, if I may say so, the radio is on pretty well all day until quarter after ten in the

evening and on the news casts, they are regular and frequent and in all areas of the cells and they are heard by the inmates and by the officer on duty in the wing or in the cell block wherever it might be and naturally if it's of an embarrassing nature he is put in an embarrassing position having to listen to it at the same time as everybody else is listening to it and this again, I think, and I strongly suggest is one of the factors contributing to the breakdown of a mass morale if there is such a breakdown.

Q Sir, I am now showing you another document --

MR. PEACOCK: I suppose I should at this stage point out Mr. Commissioner that the documents that are being introduced into evidence are apparently the work of some other witness and I believe the Inquiry is covered fully by Rules of Evidence and that should be noted on a record. We are introducing hearsay evidence here today.

THE COMMISSIONER: Indeed we are Mr. Peacock and I recognize them as such but of course this Inquiry can set its own rules since we are not bound by the strict terms and I don't intend to do so and I am certain that these reports are public exhibits, public evidence to those to whom it pertains and if they wish they can have

an opportunity to rebut them.

A I could inform the Court that these documents were forwarded or obtained directly from the News Director of CKXL at my request.

MR. MEURIN: Sir, I am uncertain if I entered this last one as an exhibit, if not I should.

THE CLERK: Exhibit 44.

MR. MEURIN: If not I would like to have it entered as an exhibit.

EXHIBIT 44 - NEWS COMMENT
AS DESCRIBED

Q MR. MEURIN: Yes, have you see that document?

A This is the one that I have now, do you want me to refer to it?

Q Yes, I would like to refer to the last paragraph.

A This is also dated.

"This is a verbatim transcript of a news comment broadcast today on CKXL in Calgary. Equal time is offered to a qualified spokesman of the opposing viewpoint."

It is dated Friday August 10, 1973.

"When attempting to convince provincial authorities that a complete and independent Inquiry is warranted, might I remind them that two prison guards were beaten up by several prisoners at Foot-hills Hospital on July 16th. Would it be coincidence that guards beat up several prisoners on July 17th?"

Q Now, would you care to comment on that?

A This is an incorrect statement as will come up, I believe, in the later evidence.

Q Would you care to comment specifically in relation to the dates?

A The dates, to my knowledge, are incorrect. The incidents when the guards were beaten up, if you will, or assaulted I prefer to use, in company with police officers took place on the evening of the 17th, the 17th of July when they were escorting four men to the Foothills Hospital to another portion of the gaol.

Q I don't want you to comment on specifics but I would like --

A Well, the two events occurred on the same evening and within probably the same hour or an hour and a half and in two separate areas of the gaol without any communication from one to the other. They were both wide apart as far as the statement is concerned.

Q Now sir, do you take the implication within the last paragraph of that exhibit that there was retaliation by your staff?

A The inference left to the reader or the listener that there was retaliation but if the dates and the facts that I am attempting to quote are correct

this would be in error and would be wrong.

Q What effect does that have on morale of your staff?

A Well, sir, I would leave that to your imagination.

It's this constant bombardment all through the radio day after day after the alleged incident and before inquiry took place is bound to reduce or to affect adversely the morale of the staff.

May I add one more fact.

The staff are people that live in this community, in Calgary, and they will be affected in their own communities and in their own relationships with their relatives or friends as a result of this type of publication.

Q Now sir, you commented on individuals in the John Howard Society, are you a member of the John Howard Society yourself?

A I am a member and have been for many years and I am an elected member of the District Council of the John Howard Society in Calgary.

Q And any criticism you have of the John Howard Society --

A I am not victimizing the Society or its objects but I am criticizing the actions of one man.

Q Sir, if I might just regress for a minute. The overall effect of this is what you consider a serious problem of morale and your staff or is

this merely discouraging?

A I would say severe discouragement in the performance of their duties and it also has another bad effect even if it fails to polarize the staff from the inmate population into two separate opposing groups and this is being created not by us but by outside influence and this is what I am referring to.

MR. MEURIN: Fine sir, answer any further questions.

CROSS-EXAMINATION BY MR. STILWELL:

Q MR. STILWELL: Do you know what the Foot-hills Flyer is, Mr. Jackson?

A I do.

Q Is it a publication put out by certain inmates?

A Yes.

Q Particularly those involved with an alcoholic problem?

A Correct.

Q I am showing you what purports to be the September 1973 issue, can you identify it, please?

A Oh, yes, I know this publication. I don't know if I have read it or not.

Q Do you or any of your men have a hand in the publication of it?

A Pardon?

Q Do you or any of your staff have a hand in the pub-

lication of it?

A No, it's published by the inmates. If you read the opening portion it says:

"The views expressed here are by the inmates and not necessarily those of the administration."

Q Mr. Commissioner, I am going to ask that it be marked as an exhibit in a moment but I will read firstly from the last page of the editorial:

"It's perhaps time it was said "that the media is doing more harm than good" and is bordering on slanderous and deflamatory conditions. Let the truth be known - yes, but not malicious gossip. This is not the first time that the media has jumped the gun and been detrimental towards this institution - we want to make it the last."

And then it has a

P.S.

"Perhaps the media could help us upon release rather than condemning our actions while we are incarcerated."

Perhaps this could be the next exhibit.

THE COMMISSIONER:

Certainly.

EXHIBIT 45 - FOOTHILLS
FLYER DATED SEPTEMBER
1973

THE COMMISSIONER:

well?

Are you finished Mr. Stil-

MR. STILWELL:

Yes.

THE COMMISSIONER:

Mr. Macdonald?

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Q MR. MACDONALD: I just have one question, Warden. One point you mentioned about the nature of the work, the guards are involved, as you say they are working with losers and psychopaths and con-men that that is soul-destroying?

A It can be over a period of time. Let's say to the average man it is not physically hard work but there is a mental strain, there is a mental strain for all of us working as you can well imagine where you have this Inquiry for example, this imposes mental strain on me and all the other members of the staff --

Q Well, let's not --

A Let me finish, wait till I finish. On the rest of the staff.

You work eight hours a day in a cell block with prisoners demanding, prisoners wanting, prisoners passing remarks, I am not saying all prisoners, don't let me condemn all prisoners, I am not doing that, they don't always all indulge but there are problem people and it can be soul-destroying over a period of years.

Q Now, bearing in mind we are speaking in generalities, would it be fair to categorize certain of the employees

of the Institution that over a period of time they become cynical and develop a dislike towards prisoners?

A It's possible and it's possible that some people do but I cannot identify them, I am not particularizing on an individual.

Q No, I appreciate that, we are speaking in generalities.

A Yes. This is because of the demoralizing effect of working in these conditions.

Q I am just wondering what the actual effect is, do you feel that it can, say, cause some of the guards to lose respect for those prisoners as an individual?

A I don't think so. I think it effects their own work and themselves but I don't think there is any question of loss of respect of the prisoners as individuals or as a human being.

Q I am wondering if the guards themselves categorize these people as losers and psychopaths and con-men?

A Not at all, they call them inmates. That is the regular name that is used and furthermore if you read the Regulations probably under the Act that we are not allowed to refer to prisoners in a deflamatory manner.

Q No, that is quite true, I am not saying what is expressed verbally but a mental attitude, their approach to their jobs?

A Sir, I cannot account for the internal mental attitude of one person.

Q But you have --

A I cannot read their minds but I can read my own.

Q You have agreed that the type of individuals that we have to deal with --

A Possibly --

Q That --

A I gave that as a possibility and I think -- let's not particularize but it's part of a general situation.

Q Quite so but you did agree with me that that would cause them to become somewhat cynical?

A I don't agree, I didn't agree with you on that.

MR. MACDONALD: Thank you.

CROSS-EXAMINATION BY MR. SCOTT:

Q MR. SCOTT: Warden, it's my understanding first of all, Mr. Commissioner, that Warden Jackson will be recalled to be examined later in the Inquiry, examined in greater detail on references particularly that he has made today?

THE COMMISSIONER: That is correct.

MR. SCOTT: And it is understood by

Counsel for each Counsel in this Inquiry that we will be given the opportunity to examine this man further in much greater detail?

THE COMMISSIONER: That is correct.

MR. SCOTT: And accordingly the questions that will be asked -- well, have been asked and will be asked by myself are only to clarify points that hopefully will open having this Inquiry later on?

THE COMMISSIONER: That is correct.

MR. SCOTT: In that light then I only have one question. I will reserve my right to examine Warden Jackson at a later date.

I have this one question, what is the name of the worker from the John Howard Society?

A I will not express the name, I don't think I am obliged to do that. I will do so under advisement but I have identified the organization.

Q Mr. Commissioner?

THE COMMISSIONER: Mr. Meurin, I will do it this way for the time being, I will advise you to advise your client to answer it.

MR. STILWELL: Perhaps we should have a short adjournment.

THE COMMISSIONER: Yes, if there is going to

I any hesitation about that there will be a short adjournment of five minutes. A five minute adjournment.

(Hearing adjourns)

(Hearing resumes)

THE COMMISSIONER: Mr. Scott.

MR. SCOTT: Warden Jackson, I take it that you had an opportunity to consult with your Counsel?

A Yes, thank you very much.

Q Please answer the question?

A The gentleman to whom I am referring to is one of the regular social workers Mr. Jim David who was the man who took the statement from the prisoner.

MR. SCOTT: Very good, that is all the questions that I have.

MR. PEACOCK: I believe that is all we have from Warden Jackson at the present time but just to make things perfectly clear that I had advised at the outset that we propose to inquire at this time of five incidences of alleged excessive use of force. It is my suggestion that in order to go further into questions of a general nature which we have moved into with Warden Jackson on the stand at this time and I think for all purposes it would be better to hear the evidences

of the five incidents and any further evidence of
any other incidents and then if we could call on
Part 6 of the Inquiry we will have Warden Jackson
back for full questioning at that time and to follow
up any areas that we wish to touch on.

THE COMMISSIONER: Thank you Mr. Peacock.

MR. PEACOCK: Mr. Commissioner, we will
proceed at this time into the incidents which is
specifically referred to in the Order appointing
you as Commissioner and that is the incident, the
alleged excessive use of violence on July 17th,
1973 and as I have advised at the outset of the
Inquiry we have some forty witnesses subpoenaed for
this portion and I propose at this time to call
Jack Watson.

MR. MEURIN: May Warden Jackson be
present for this evidence, I don't think there is
any allegation that he was present at any of these
incidences.

MR. PEACOCK: I have no objection.

MR. STILWELL: No objection.

THE COMMISSIONER: Yes. He may stay.

THE CLERK: Your full name, please?

THE WITNESS: Jack Thomas Gale Watson.

JACK THOMAS GALE WATSON, having

first been duly sworn, examined by Mr. Peacock, testified

as follows:

Q MR. PEACOCK: Mr. Watson, where do you reside?

A Brooks.

Q And are you presently living in Brooks?

A No, I'm not.

Q Where are you living now?

A Coronation.

Q Are you working there?

A Yes, I am.

Q Were you earlier this year an inmate of the Calgary Correctional Institute?

A Yes, I was.

Q And were you there on July 17th, 1973?

A Yes.

Q How long had you been there prior to that time?

A About seven months.

THE COMMISSIONER: Excuse me Mr. Peacock but do either of you gentlemen represent Mr. Watson?

MR. SCOTT: We are representing him jointly Mr. Commissioner.

Q MR. PEACOCK: You were incarcerated for approximately seven months prior to July 17th, is that correct?

A Yes.

Q And what was the offence for which you were incar-

related?

Dangerous use of a firearm causing bodily harm.

And you were released from the Institute when?

August 23rd, August 24th.

And you have been out since then?

A Yes.

Now, on July 17th, 1973 where in the Institute were you quartered?

A West wing.

Q You were in the west wing?

A Yes.

Q Where the beds numbered in the west wing?

A Yes.

Q What number bed were you in?

A 40.

Q And I gather in the west wing that each inmate has a bed and some kind of a locker, is that correct?

A Yes.

Q And you were in number 40?

A Yes.

Q Who was in 39?

A Don Madsen.

Q Madsen?

A Madsen, yes.

Q Who was in 41?

A Some old guy, I don't know his name.

Do you know who was in 39?

Winters.

In 38?

Spooner.

In 37?

Winters.

In 36?

Sims.

Now, I gather that on July 17th there was some kind of a disturbance in the west wing, is that correct?

Yes, there was.

Can you tell me what happened that gave rise to this disturbance as far as you can recall?

THE COMMISSIONER: I wonder if the witness could be shown the exhibit of the west wing. It's either 16 or 17.

MR. PEACOCK: I'm showing you a photograph which has been marked Exhibit 16, were you on that side of the wing on July 17th?

No, the other side.

I will show you a photograph marked Exhibit 17, is that the side that you were on?

From where was this taken -- no.

How many sides are there?

Just two sides. Yes, this side here.

You were on the side that is depicted on Exhibit 16?

Yes.

Can you show us approximately where you were,
where bed #40 was?

A Right about there.

Q So you would be about the middle of that photo-
graph and that being Exhibit 16?

A Yes.

Q Do the numbers run upward or downwards from where
you were if we move towards the back of the picture?

A Downwards.

Q So Sims, Spooner and Winters would have been
past you in that picture?

A Yes.

Q Okay. Now, on the night of the 17th of July can
you tell us what happened?

A Well, we had the radio on a little later the night
before and we asked if we could have it on a couple
of minutes later than it usually went off.

Q What time does it usually go off?

A About ten o'clock.

Q Where is the radio situated?

A In the guard cubicle.

Q Is it one radio that plays throughout the dormitory?

A Yes.

Q And it usually goes off at ten o'clock?

A On the earlier nights like Monday and Tuesday and

... night about 10:30 and Thursday, Friday

Saturday and Sunday about 11 o'clock.

That night was July 17th, do you recall?

It was either a Monday or a Tuesday.

It was one of the early nights?

Yes.

And someone mentioned or someone requested that the radio stay on later?

Yes.

Who was that?

Me.

Did you ask the guard in the cubicle at that time?

A Yes, I did.

Who was the guard on duty, do you know his name?

A Dewar.

Q And what did he say to you?

A He said: "No, it goes off the usual time".

Q What happened then?

A Well, nothing much then when the radio went off everybody started yelling and banging on their lockers.

Q What time did the radio go off, do you recall?

A About ten o'clock, I would imagine.

Q And everyone started yelling and banging on their lockers?

A Yes.

Q What were they yelling?

A Turn the radio on.

Q Were you yelling?

A Yes, I was.

Q What did you yell?

A Turn the radio on.

Q Were those your exact words?

A More or less.

Q I take it there was some descriptive terms used?

A Yes, there was.

Q Who were all these terms addressed to?

A Mostly to the guards.

Q Mr. Dewar?

A Yes.

Q What were the people banging on their lockers with?

A Fists and boots.

Q Was anything being thrown?

A Not right there there wasn't.

Q So at this stage yourself and other members of the wing were yelling at Dewar to turn the radio on?

A Yes.

Q Were all of the inmates in the wing at that time yelling or just some of them?

A More or less all of them.

Q There was a general shouting match, was it?

A Yes, it was.

Q Well, the noise kept up and everybody was sitting on their beds banging their lockers and things and most of the noise kept up banging on the lockers and the lights came on and the radio come back on for about five minutes and then went off again and the noise continued.

Q Well, when the radio came back on did the noise die down?

A Yeah, a little bit.

Q I take it that there was still some yelling and banging on the lockers when the radio was turned on?

A Yes.

Q Would you say that it had ceased or was the yelling decreased or increased or stayed the same or what?

A It decreased but not ceased.

Q I see. Were you still banging on your locker and yelling when the radio came on?

A Yes, I was.

Q What happened then?

A Then it went back off and the yelling continued and then Mr. Coljee came in.

Q Coljee?

A Yes.

Q C-o-l-j-e-e?

I don't know.

Well, go ahead?

A And he came in and stood for awhile and the noise continued and a few verbal phrases were thrown and a few cups were thrown on the floor and boots.

Q All right, let me intervene again, at this time was there a rule that when the radio and lights went out people were supposed to retire or were you still around, what was the rule to your knowledge?

A We were supposed to retire.

Q So when the radio and lights went out the inmates in the west wing were supposed to go to bed?

A Yes.

Q And you indicated that the radio came on and then when it went off again the banging on the lockers continued?

A Yes.

Q And then Mr. Coljee came, is he a guard?

A Yes.

Q Did he come right down to the dormitory?

A Not right down, he came right into the dorm.

Q What happened then?

A Well, he stood for awhile and then he left.

Q At the time he was standing there were the inmates saying anything to him?

A Yes.

What were they saying?

THE COMMISSIONER: Go ahead and tell us what they said?

A Well, they said that if he had more hair on his face they would marry him and they told him to fuck off.

Q MR. PEACOCK: Anything else?

A Not really, mostly just yelling.

Q Was this just general yelling by the inmates at this guard?

A Yes.

Q Did he say anything to the inmates about the banging and the yelling that was going on at the time?

A Not at the time, no.

Q Were you still banging your locker and yelling?

A Yes.

Q Did you yell at Mr. Coljee?

A Yes.

Q What did you say to him?

A I told to turn the radio on.

Q Were those your exact words?

A No.

Q What did you tell him?

A To turn the fuckin' radio on.

Q And was this generally what the other inmates were yelling at him at this time?

A Yes.

Q Did he reply in any way at that time?

A No.

Q What was he doing when he was standing there?

A Standing there and looking around at everybody.

Q And then what did he do?

A Well, he left and the noise continued and he come back a bit later with another guard.

Q Do you know who the other guard was?

A No, I can't remember.

Q What happened?

A He was there and the other guard went to the opposite end of the dorm and they stood there for awhile and by then the noise died down a bit and they left after about five minutes, I guess, and after they left the noise started up again.

Q And what was this, was this the same yelling?

A Yes.

Q And the banging on the lockers?

A Yes.

Q Are these lockers movable?

A Yes, they are.

Q Were any of the lockers being moved at this time?

A No, I don't think so.

Q Just people pounding on them?

A Yes.

Q With shoes and fists?

A Yes.

Q When Mr. Coljee left after the first trip into the dormitory you indicated the noise started up again, is that correct?

A Yes, it did.

Q And then Mr. Coljee came back again with another guard and the noise died down?

A When they were in there, yes.

Q Did it cease?

A No, not really.

Q So that the yelling continued?

A Yes.

Q Did the banging of lockers of continue?

A After they left, yes.

Q And you were still participating in the yelling and locker banging?

A Yes.

Q What happened after Mr. Coljee and the other guard left, did banging and yelling continue?

A Yes, it did.

Q Was anything being thrown at that time?

A A few cups were thrown on the floor.

Q What happened next?

A A few people got out of bed and went down to the end to play some cards and then they went back to bed.

Q Were you going to play cards?

Q No.

Q What happened then?

A They had left, the noise continued and they came back again this time they walked up and down for awhile.

Q Who is they, do you know the identity of the guards that walk up and down at this time?

A There was Mr. Coljee and Mr. Dewar were at one end and there was another guard, I can't remember who he was.

Q They were walking up and down the dormitory?

A Yes.

Q Was the noise going on while they were walking up and down the dormitory?

A No, it wasn't.

Q It ceased?

A Yes.

Q What happened next?

A Well, they left and then I turned over and put my head under my pillow, I stopped yelling and banging and then the next thing I knew my hand was grabbed and handcuffs were put on me and I was told to get out of bed and there was guards up and down there.

Q How many guards were in the dormitory at this time?

A I don't know the exact number.

Q So you put a pillow over your head?

A Yes.

Q What was the purpose of that?

A Well, I was getting tired of yelling.

Q Was the yelling still going on when you put the pillow over your head?

A Yes, it was.

Q When Mr. Coljee and the other guards were walking up and down the dormitory were the inmates sitting quietly or were they yelling at him?

A Pardon me?

Q When Mr. Coljee and the other guards were walking up and down the dormitory was there silence in the dormitory or were people saying something to him?

A Well, there was mostly silence but there was the odd remark.

THE COMMISSIONER: Such as?

A Oh, told to fuck off and things like that.

THE COMMISSIONER: How often were those remarks made?

A Not very often.

Q MR. PEACOCK: When Mr. Coljee and the other guards finished this walk up and down the dormitory did they leave before the other guards came back?

A Yes.

Q Did you hear anyone in the dormitory hollering threats to the guards?

A Yes, I did.

Q Would you tell me what you heard?

A I heard that -- I heard someone yell if they crossed the line they were dead.

Q Do you know who yelled that?

A No.

Q Now, I gather that they crossed the line?

A Yes, they did.

Q And they came back with more than just Coljee and another guy?

A Yes.

THE COMMISSIONER: Can you help the Commission to know what you mean by the line?

Q MR. PEACOCK: Can you explain what you mean by the line?

A The doorway.

Q I see.

THE COMMISSIONER: The doorway?

A Yes.

THE COMMISSIONER: The doorway leading into the dormitory?

A Yes.

Q MR. PEACOCK: Was this after they made the trek up and down the hallway or the dormitory?

A Yes, I think it was.

Q Do you know if they were on their way out or if

they gotten out or where they were when this phrase was pulled at them?

A Towards the front.

Q And the next thing you pulled a pillow over your head and the next thing you know you were handcuffed?

A Yes.

Q Who was the guard that handcuffed you?

A Dewar.

Q And what did he say to you?

A Get out of bed.

Q Did you?

A Yes.

Q What happened next?

A Well, I got out of bed and I was standing there and I asked if I could put on my pants and he said no so I was told to go up the front so I went out to the front and I was supposed to stand there and so I was standing there and they starting getting everybody else out of bed and they got up to the front too.

Q Who else did they get out of bed?

A Spooner, Sims and Winters.

Q So there was four of you altogether ultimately brought to the front?

A Yes.

Q Did you observe the other three fellows being taken

out of the door got it up?

A No.

Q What do you recall, just a few feet when they arrived at the front, did you see them then?

A Yes.

Q What did you observe?

A Well, we were standing there waiting and Mr. Schlegel come out and he told us to get moving.

Q This is another guard, Mr. Schlegel?

A Yes.

Q What happened next?

A So we are going out of the door and he started swinging at somebody, he hit someone but I didn't see who and then went out of the door and I heard a commotion behind me going on down past the guard-room and I looked back and Sims was backed into the corner in the hallway with his hands in front of his face and Mr. Schlegel was hitting him.

Q All right, this is Mr. Sims that was being struck?

A Yes.

Q This was in the hallway?

A Yes.

Q Were you aware of where you were going when you started out of the west wing?

A Yes, I was.

Q Where were you going?

A To the digger.

Q And the digger is what?

A The hole.

Q I see. And were you told that that was where you were going?

A Yes.

Q Were you told why?

A Not at that time.

Q Did you have an idea why?

A Yes.

Q Why did you think you were going to the digger?

A For carrying on the way we did.

Q Now, you got out into the hall and you heard a commotion and looked back and saw Mr. Schlegel hitting Mr. Sims?

A Yes.

Q Would you be able to describe what he was hitting him with?

A A billy jack.

Q Mr. Clerk, would you open the box containing the exhibits. Would you look at Exhibits 35 and 36, are you able to look at either of those exhibits and advise which one of those items was in the hands of Mr. Schlegel at the time that you saw him strike Mr. Sims?

A Either one.

Q All right. Are you able to peering a look in there and pick one out of there?

A No, I can't.

Q Are you not able to recognize what Mr. Sims was being struck by?

A No, I am not.

Q Could it have been one of those items that you were just shown?

A No, it was a black rubber one.

Q How long was it?

A About that long, I guess.

Q Ten inches long?

A Yes.

Q Now, you say Mr. Sims was in a corner?

A Yes.

Q Was this in the middle of the hall or the guard's cubicle or where was it?

A Just outside of the doorway of the west wing.

Q So it would be right beside the guard cubicle?

A Just outside in the hallway, yes.

Q Did you see what started this scuffle between Mr. Schlegel and Mr. Sims?

A No, I didn't.

Q Did you hear Mr. Schlegel say anything or Mr. Sims say anything before you heard the scuffle start?

A No.

Q All you heard was a scuffle and you turned around and saw Mr. Schlegel hitting Mr. Sims?

A Yes.

Q Were they facing each other?

A Yes, they were.

Q And what part of Mr. Sims was Mr. Schlegel hitting?

A The upper part of the body.

Q Was he hitting him on the head?

A No, the shoulders.

Q I see. What was Sims doing?

A He had his arms up protecting himself.

Q And what occurred then, did they say anything to each other?

A Mr. Schlegel was saying something to Sims but I couldn't catch it but Sims was saying that he had fuck all to do with it.

Q Did Mr. Schlegel answer him?

A I can't recall.

Q Did you see Sims participating in the yelling and banging that was going on?

A Yes, I did.

Q And after he said this to Mr. Schlegel, what happened next?

A Well, we were sort of running down the hall and he broke away and started following behind us and Mr. Schlegel turned and followed behind him

and we were told to run and we were running and we got to the north wing and turned right, went down that hallway and when we got to the doors of the cell block and stopped and the handcuffs were taken off me and then went downstairs and we were shoved into the cell, the four of us were shoved into the one cell.

Q This is in a cell block?

A Downstairs.

Q In the hole?

A Yes.

Q In the digger?

A Yes.

Q Now, from the time you saw Mr. Schlegel hitting Mr. Sims with this black club until you got down to the cell block did you observe anybody hitting anyone else?

A No, I was hit myself on the shoulders a few times.

Q When were you hit on the shoulders?

A While coming down the hallway.

Q And what happened, how did this arise?

A Just going down the hallway I was hit on the shoulder and told to run faster.

Q From behind?

A Yes.

Q What were you hit with?

A With a black cloth.

Q Who did that?

A I don't rightly know.

Q All you know is that someone hit you on the shoulder as you were moving down the hall?

A Yes.

Q Did it hurt?

A At the time.

Q Where were you hit?

A Right on this part of the shoulders.

Q Did it knock you down?

A No, it never.

Q Did you move faster?

A Yes, I did.

Q Now, when you got down to the cell block they took the handcuffs off you?

A Yes.

Q And put all four of you in the one cell?

A Yes.

Q Did you hear any scuffling or see any scuffling while you were down in the cell?

A Not really, but we were all pushed into the cells.

Q And the door was locked?

A Yes.

Q Now, when were you let out of the cell block?

A The next day.

Q And at that time were you taken before the Warden?

A Yes, we were.

Q Do you know what that proceeding was called?

A Warden's Court.

Q And were you charged?

A Yes, I was.

Q What was the charge that was levied against you?

A Creating a disturbance after lights out.

Q And were you given a chance to enter a plea to that?

A Yes, we were.

Q What did you plead?

A Guilty.

Q And were you punished as a result of that creating a disturbance?

A Yes, I was.

Q What were you sentenced to?

A Three days good time.

Q What does that mean?

A I lost three days good time.

Q And then you were put back into the west wing?

A No, into the east wing.

Q Winters, Sims and Spooner, were they put into the same wing as you?

A No, they were put into the north wing.

Q Can you tell me why you were banging on your locker or yelling that night?

A Just something to do.

Q And were you in fact aware that a radio was supposed to be off when it was turned off?

A Yes, I was.

Q Did you think as to what you expected the guards to do when you were carrying on like this?

A No, I didn't.

Q You were just doing it?

A Yes.

Q Did you seek any medical attention after this incident?

A No.

Q Was your shoulder bothering you the next day?

A It was sore.

Q Did you have a bruise, were you able to observe a bruise?

A There was one for awhile.

Q How long?

A Two or three days.

Q Have you ever observed, Mr. Watson, any weapons or any dangerous implements in the possession of inmates that were not supposed to be in their possession, I am not just referring to this time but in your seven months prior to this, since you had been there?

A Yes, I have.

Q What had you seen?

A Knife.

Q I take it that the inmates are not supposed to have knives?

A No, they aren't.

Q Was this a knife that was in the possession of an inmate of the west wing?

A Yes, it was.

Q Are you aware that it was ever taken away from the inmate?

A Not this inmate, no.

Q To your knowledge was there an inmate that was in possession of a weapon on July 17th in the west wing?

A No, I don't think there was.

Q Now, aside from the time you saw Mr. Schlegel strike Mr. Sims and apart from that incident and apart from the incident which you were struck on the shoulder on your way down the hall did you notice anyone else being assaulted that night?

A I didn't see anybody else get hit but there was other people that were hit.

Q But you didn't see them?

A No.

MR. PEACOCK: Fine, I think those are all the questions that I have, answer questions of other Counsel.

THE COURT: Mr. Stilwell?

Q. MR. STILWELL:

In addition to the obscene language that you described there was a good deal more filthier language being thrown to the guards, wasn't there?

A Yes, there was.

Q Did you see Mr. Coljee between eight and nine o'clock that evening, I'm sorry, not Mr. Coljee -- yes, Mr. Coljee between eight and nine that evening?

A No, I don't think so.

Q Did you see Mr. Dewar between eight or nine o'clock?

A Yes.

Q I suggest to you that on the evening of July 17th you said to Mr. Dewar something like this, perhaps not those exact words: "We had the radio on until two A.M. on Monday and we want it until two A.M. tonight, we want CKXL and we will get it one way or another", did you say that or something like that?

A I can't recall. I know I asked for the radio but I didn't say that we will get it one way or another.

Q When you said that the weapon that was used to strike Mr. Sims that it was about ten inches long, would that include the handle --

Q Yes, include the handle.

Q That is the whole thing?

A Yes.

Q Is it not the case that Mr. Schlegel came in the wing and went down past your bed to Sims?

A I don't know whose bed he stopped at but I knew he was in the wing.

Q In any case you were out of the wing before Sims was taken out?

A Yes.

Q I suggest that at the time when you say that Mr. Sims was struck by Mr. Schlegel you were down near the guardroom?

A No, I was in the hallway when this happened.

Q When Sims came into the hallway from the west wing, where were you?

A I was down the hall from him.

Q How far?

A About 50 feet.

Q Were you going by the guardroom?

A Going towards the guardroom, yes.

Q No, going by the guardroom?

A No, not yet.

Q Mr. Commissioner, we have a procedural problem at this point. I was provided with copies of the statements made by the witness and they were given

this matter I am concerned and I gave these statements to all Counsel on the basis that those statements and statements which we obtained with respect to evidence given at the Inquiry under oath, whether they are under oath or not we don't know would not be used.

At least I do not have any objection to the use of the statements taken by the Investigator for the Committee or for the Commission Inspector Roberts if Counsel wish to adjourn and discuss the use of those on cross-examination I have no objection but I think I have to respect the fact that these other statements which were obtained were obtained by Inspector Roberts and were done so on the basis that, I believe the evidence requiring the test of being compulsory and I would just as soon see those statements left out.

THE COMMISSIONER: Well, I take it Mr. Peacock, there are two classes of statements, is that correct?

MR. PEACOCK: Yes, there are.

MR. COMMISSIONER: And I take it then that there are one class of statements which were obtained by Chief Inspector Roberts on the understanding that the statements would not be released?

MR. PEACOCK: No. As a matter of fact I'm

not certain of what the arrangement was. My understanding was that the statements were made available to Inspector Roberts for his information. They came into my hands and I allowed other Counsel to see those particular statements on the basis that they wouldn't be used on cross-examination.

Statements obtained by Inspector Roberts directly had been made available to Counsel and I see no objection to any cross-examination on those statements.

THE COMMISSIONER: I would be very concerned Mr. Peacock, if Chief Inspector Roberts obtained statements on the understanding or on his giving the undertaking that they would not be used or not released, shall I say parties of opposite views. I would like to have that cleared up before.

MR. PEACOCK: Perhaps we can adjourn and clarify that.

THE COMMISSIONER: It would be an appropriate time to adjourn.'

(Hearing adjourns)

(Hearing resumes)

MR. PEACOCK: Mr. Commissioner, before we adjourned I advised the statements which were obtained directly by our investigating officer but there were other statements that were made and obtained before our investigating officer through

his good efforts was able to obtain. When I made all copies of statements available to all Counsel I expressed a reservation to the use of these other statements because they had not been obtained directly by Inspector Roberts but perhaps we should put Inspector Roberts on the stand and just determine if he had made any undertakings of the use of these statements and await your direction.

THE COMMISSIONER: Would you please step down.

(Jack Watson retires from the stand)

(Inspector Roberts takes the stand)

THE CLERK: Your full name, sir.

THE WITNESS: Arthur R. Roberts.

INSPECTOR ARTHUR R. ROBERTS,

having first been duly sworn, examined by The Commissioner, testifies as follows:

THE COMMISSIONER: Do you want to lead the questions, Mr. Peacock?

MR. PEACOCK: I will let you lead whatever you wish to find out, sir.

THE COMMISSIONER: That's kind of you.

Q THE COMMISSIONER: Chief Inspector, as we are all aware anything that was said to you has no privilege in law?

A I understand that.

Q But certainly if you gave any undertaking, any promise or any suggestion to any of the persons and I will refer particularly to those that were inmates or had served as inmates and were not inmates when you questioned them that their statements would not be used I would respect that privilege so perhaps you can just outline to the Commission under what circumstances you obtained the statements?

A At no time to any inmate, guard or any member of the Calgary Correction Institute did I ever make such a promise, in fact it was the exact reverse, I told them that they might be expected to be called to this Inquiry and give evidence, that was thoroughly understood by each and every person I spoke to.

The documents we are referring to are the documents pertaining to a Warden's Inquiry which was held at the Calgary Correctional Institute and they were given to me as a start of the investigations so that I might have the whole picture. Those are the documents that are referred to not any statement that I ever took from an inmate or any other staff or ex-inmates.

THE COMMISSIONER:

Thank you Chief Inspector,

MR. SCOTT: 117

MR. STEWELL: No questions.

THE COMMISSIONER: Mr. Scott?

CROSS-EXAMINATION BY MR. SCOTT:

Q MR. SCOTT: I just have one or two questions Inspector Roberts. Did you at any time advise the inmates or the guards or any other person that you interviewed and from whom you took statements that these statements could be used and could be introduced as evidence or could be used at this Inquiry?

A Oh, certainly.

Q You told them that?

A Yes, that was the whole purpose of taking the statements, sir.

Q Did you take a statement from each of the guards?

A Most of them, sir, yes.

Q And certainly the guards that were prominent in this particular incident?

A Yes.

Q Mr. Dewar --

A I received statements from them, yes, sir.

MR. SCOTT: That is all, thank you.

THE COMMISSIONER: Mr. Macdonald?

MR. MACDONALD: No questions.

THE COMMISSIONER: Mr. Meurin?

MR. [REDACTED]: No questions, sir.

MR. PEACOCK: I have no questions.

THE COMMISSIONER: Thank you.

(Inspector Roberts retires from the stand)

MR. PEACOCK: Recall Mr. Watson, please.

THE COMMISSIONER: You are still under oath?

THE WITNESS: Yes.

THE COMMISSIONER: Mr. Stilwell, you can make use of such documents as you choose of the statements that you have, allegedly made by this witness.

MR. STILWELL: Did you make a statement to the Mounted Police on the 23rd of August of 1973?

MR. SCOTT: Are we talking about the statement made to Inspector Roberts or to Mounted Police officers or to the Warden's Court, which statement are you talking about? I would suggest that it's abundantly clear from what Inspector Roberts said that these people were aware and I accept your ruling but what about the statements made to the police, what about the statements made to the Warden's Court?

THE COMMISSIONER: Mr. Scott, the reason the matter came up in the first place was that Mr. Stilwell felt that by some understanding that he had with Counsel for the Commission and in order to doubly insure that no statements were taken under

the misapprehension that they would not be used by C.I. Inspector Roberts and the Chief Inspector was placed on the stand and we now have a statement according to Mr. Stilwell given by this witness to the Royal Canadian Mounted Police, now then, under those circumstances the statement of course is available to Mr. Stilwell apparently he has no suggestion of a understanding or undertaking by Counsel for the Commission with respect to this particular statement if he obtained it on his own or by other sources I am suggesting that he can use it.

MR. SCOTT: This was a statement that was obtained from Mr. Peacock, I'm not sure, I got three statements here --

MR. STILWELL: I am only trying to orient the witness so that he knows what statement I am talking about. I am not going to cross-examine him on the statement made by the Mounted Police but in all fairness to this boy I want to straighten out in his mind that he allegedly made three statements and I want to know which one I am talking. That is the only reason for that introductory question, if Mr. Scott has a little more patience.

THE COMMISSIONER: Well, he is younger than you Mr. Stilwell. I might say this Mr. Stilwell

that certainly the documents that you have from the Royal Canadian Mounted Police unless there is some suggestion that they were also taken under circumstances in which a quasi-criminal privilege might have been extended I see no reason why you should not refer to them.

CROSS-EXAMINATION BY MR. STILWELL:

Q MR. STILWELL: This statement was allegedly made at Cessford Alberta?

A Yes.

Q That was taken by Inspector Roberts?

A Yes.

Q And just by way of clarification you gave two other statements, one to the Mounted Police and one to someone else earlier?

A Yes.

Q I am now talking about the one dated September 12th, 1973 at two o'clock in the afternoon at Cessford Alberta?

A Yes.

Q Was that statement made after you were released from the Institution?

A Yes, it was.

Q I am going to show you the statement but before I do I am going to say that I am advised by Inspector Roberts that he took the statement from you on the 12th and he typed it up the following day from notes

that he made during the course of the statement,
do you agree or disagree with that?

A I agree.

Q Would you look at it, please?

THE COMMISSIONER: Might I have a copy.

MR. MACDONALD: I am wondering Mr. Commissioner if it is going to be made part of the record?

THE COMMISSIONER: I am not looking at it Mr. Macdonald but depending on what this witness says and if it is made part of the record then I will have one, you'll notice it's turned over for the moment.

Q MR. STILWELL: Have you now had an opportunity to read the statement?

A Yes.

Q Is it true?

A Yes, it is.

Q May I have it back, please Mr. Clerk. Did you notice the parts that I underlined Mr. Watson?

A Yes, I have.

Q One of them says as follows:

"I was just going by the guardroom when I turned around and saw Sims come in the hallway to the west wing",

is that correct?

A Well, when I said that I was going by the guard-

room I didn't mean I was right beside the guardroom, I was in the hallway but said I was in the guardroom so you would know where I was.

Q In order to get from the west wing down the hallway and past the guardroom and on down to the digger you have to go past at least one grill gate?

A More than one.

Q There is one between the west wing door and the guardroom?

A Yes, there is.

Q When you turned around had you come through that grill gate or had you not come through it yet?

A I don't think we had gone through it yet.

Q It is my information that Sims was taken out of the room last and that confirms with what you say, doesn't it?

A Yes.

Q So you were already in the hallway when he was brought out?

A Yes.

Q How many Correctional Officers were herding you and the others along?

A I really don't know, I would say three or four.

Q Or more?

A Maybe more.

Q There was a considerable amount of confusion?

A Yes.

Q Were the guards ahead of you or behind you?

A Behind us.

Q And were other people behind you as well,
other inmates?

A No, we were all pretty well in the one group.

Q Were you the first or the second or the third
of your group?

A About the middle.

Q So there would be one ahead of you and one behind
you and three or four or more guards extending down
the hall?

A Yes.

Q Were some of these guards urging you along by pushing
you by the arm and this sort of thing?

A I can't remember.

Q There was a considerable amount of confusion, was
there not?

A Yes, there was.

Q And in the course of this you turned around and
looked back and you saw, you say Sims just come
to the door of the west wing?

A He was out of the door, yes.

Q Was he out or coming out?

A No, he was out when I looked back, he was in the

corner.

Q In the statement you say:

"I was going by the guardroom and turned around and saw Sims come in the hallway from the west wing",

did you see him come into the hallway?

A Not through the doorway but I saw him when he was in the hallway.

Q Now, there are two departures from the statement. And from that distance in all that confusion you heard what Sims said to Mr. Schlegel?

A Yes, I did.

Q You didn't hear what Mr. Schlegel said to him?

A No, I didn't.

Q Was Sims shouting?

A Yes.

Q And Mr. Schlegel was not shouting?

A No, not really.

Q And the three or four or five or more guards that were escorting you out you turned around and they allowed you to turn around and stand and watch what was going on behind you?

A Well, I didn't stop, I was walking when I was looking back.

Q You took a brief look over your shoulder?

A Yes, I did.

Q Isn't it a fact that the following day that wing was

searched, of course you were not in that wing the
following day?

A No, I wasn't.

Q Is it true that someone was smoking hashish in the
west wing on the night of July 17th?

A Yes, there was.

Q I suggest to you that what you actually saw was
that Mr. Schlegel pushed Sims along with the end
of his billy instead of hitting?

A No, they were stationary in the corner.

Q Who was stationary?

A Both Sims and Mr. Schlegel.

Q You mean Sims was not walking down the hall?

MR. MACDONALD: Perhaps you can rephrase
that question as to when you are talking about.

THE COMMISSIONER: Can you help us there?

Q MR. STILWELL: At the time that you
allege Sims was hit?

A When Sims was hit he was stationary.

Q But you were ordered to go to the digger?

A Yes.

Q So Sims was not walking down the hall towards the
digger?

A Not at the moment, no.

Q Were you told to run to the digger?

A Yes, we were.

Q Did you run?

A Yes, we did.

Q From where, as soon as you got out of the west wing, I presume?

A No, a little farther down we were running.

CROSS-EXAMINATION BY MR. MACDONALD:

Q MR. MACDONALD: How were you dressed on your way down to the digger?

A I wasn't.

Q You were absolutely naked?

A Yes.

Q No shorts on?

A No.

Q Is this on your way to it or when you got there?

A This was on my way there.

Q And the other three?

A They had shorts on.

Q What happened when you got to the digger, the meditation cells, have you heard them called that?

A I have.

Q What happened when you got there?

A We stopped outside of the door and we had to push a button for the guy in the cell block to open up the door and when the door was being held open the cuffs were taken off me and those guys were -- we were taken downstairs and those guys were told to

strip and put in number one cell.

Q Are you telling me that at that point the four of you were absolutely naked?

THE COMMISSIONER: I believe he said the other three had shorts, did I understand you correctly?

A Yes.

Q MR. MACDONALD: When they were told to strip was it to strip down to their shorts?

A No, it was everything.

Q So when you went inside the cell nobody had anything on?

A No.

Q Are there any mattresses of any kind in there?

A No, there wasn't.

Q Any blankets provided?

A No, there wasn't.

Q Now, you had a look in the box in front of you and you cannot see anything in there that you were struck with, is that correct?

A No.

Q Is there something in there that you were struck with?

A No, there isn't.

Q What were you struck with?

A It was a piece of black rubber flexible rubber.

Q Was it open- and then was it closed?

A No, it was closed.

Q Do you have any idea of its dimensions?

A About all told eight, ten inches long and about three-quarters to an inch at the other end, three-quarters at one end and about an inch at the other.

Q Had you ever seen these particular things around the Institution before?

A No.

Q Did you see them again after this night?

A No, I have not.

Q Do you have any idea why you were singled out?

A Not really, I think they just came in and picked any four at random.

Q What would happen -- I take it when this whole thing started the radio was off and the lights were off?

A Yes.

Q Now, did the radio alone come back on or the radio and the lights?

A The radio had come on once and the radio and the lights had come on and the lights had come on once but they come on and off again a couple of times.

Q And is it your evidence that when the lights were on the noise died down?

A Yes.

Q If you were in the dorm when the lights are out can you see what is going on at the other end of the dorm?

A Not really.

Q What do you mean by not really?

A Well, they got a little blue light or white lights that you can see, you can see something going on but you cannot see who it is.

Q You can detect movement, is that right?

A Yes.

Q Were you out of your bed at any time after having gone up to the guard door and asked them to turn the radio on?

A I had not been to bed yet.

Q After you spoke to them?

A Yes.

Q You asked them to leave the radio on, is that correct.

A Yes.

Q Did you then go back to bed?

A I was not in bed yet, it was before we had gone to bed.

Q Did you eventually go to bed?

A Yes, I did.

Q And after you got into bed did you get out again?

A Not until I was taken out.

Q Were you told why you were being handcuffed?

A No, I wasn't.

Q Were your hands behind your back?

A Yes, they were.

Q Did anybody tell you why you had to run?

A No.

Q At the time you were struck, what were you doing?

A I was going down the hall.

Q In your mind did you feel you were doing what you were told to do?

A Yes, I did.

Q Were you swearing at these guards as you were going down the hall or were you saying anything?

A No, we were not saying anything.

Q I take it the language that was used in the dorm was extremely abusive?

A Yes, it was.

Q As much as Mr. Stilwell has pointed out much more so than you have indicated here today?

A Yes.

Q Did the guards say anything in reply to this language?

A Not really.

Q Were you told to be quiet?

A Yes, we were.

Q Mr. Watson, what do you feel would have happened

... it went out and the radio was turned off
if things had been left that way, how long would
this have gone on, this yelling and banging?

A I really couldn't say, it could have went on or it
could have died out but it was dying out a little
bit at the end but it probably would have carried
on.

Q Did you get tired of yelling?

A Yes, I did.

MR. MACDONALD: That is all I have, thank
you.

CROSS-EXAMINATION BY MR. SCOTT:

Q MR. SCOTT: Mr. Watson, in the state-
ment that Mr. Stilwell has referred to which you
gave to Inspector Roberts you stated: "Everyone
was a little uptight that night", why was everyone
uptight?

A Oh, with themselves and the way things were being
run, generally about everything.

Q Would you say that the general atmosphere -- was
this a continuing thing or was this for this one
particular evening?

A No, it had been building up.

Q And why had it been building up, specifically, what
were the reasons?

A Well, there was a hassle between the south and the

west wing.

Q In what way?

A There was a guy in there that ripped another guy off and he was going to do him in.

Q The guy in which wing?

A South wing.

Q He was going to do the person in in the west wing?

A No, the guy in the west wing was going to do the guy in in the south wing.

Q Pardon?

A The guy in the west wing was going to do the guy in the south wing in.

THE COMMISSIONER: What do you mean exactly?

A Well, beat him up.

THE COMMISSIONER: Physical injury?

A Yes.

Q MR. SCOTT: When you say rip him off, what do you mean?

A Rip him off for eight grams of hash.

Q Eight grams of hashish?

A Yes.

Q In your opinion is there a substantial amount of drugs used in the Institution?

A There is a fair amount.

Q And on the evening in question you did in fact smell hashish being smoked?

A Yes.

Q Had you ever had any?

A No, I didn't.

Q Is there any other reason that the wing was uptight?

A Oh, just other reason, the other reason being the way things were being run.

Q You mean the way that things were being run in the Institution?

A Yes.

Q Were there any complaints that you had?

A Yeah, I had a few.

Q What would they be?

A Well, a person put in a request to see Warden Jackson and you would put in a couple of requests to see him and the requests half of the time wouldn't get to him because they would be stopped by Merriam and Elliot and then they would call you up and they would talk to you and say: "Sorry, we can't let you see Mr. Jackson, tell us your problem".

Q You mean by Elliot and Merriam the Deputy Warden?

A Yes.

Q How many times did you request to see Warden Jackson?

A A couple of times, three or four.

Q Was this during the duration of your incarceration?

A Yes.

Q Did you ever see Warden Jackson?

A No, except for Warden's Court.

Q Except for Warden's Court?

A Yes.

Q But did you ever see him as a result of request?

A No.

Q Did anything ever come of this threat to do someone in that you are aware of?

A No, it was pretty well settled.

Q When you used the word uptight, you mean the whole ward or wing was uptight or just you specifically?

A It was a general feeling in the wing.

Q Had this type of incident that took place that night, this rowdiness, had it happened in the past?

A In a way but nothing to the extent that it went to that night, there was a lot of times when the radio was turned off or something and they yelled for a few minutes.

Q And would that die down?

A Yes.

Q How much time passed between the time the radio went off and the lights went back on again?

A I would say ten, fifteen minutes.

Q Tell me, was it the usual practice for the radio to remain on later than ten o'clock on Monday and Tuesday nights, do they ever extend the period later

and carry on longer than this?

A No.

Q It always went off at exactly ten?

A Ten or five after, around ten o'clock.

Q Was there any reason why any of the inmates should expect that it should go on any longer that night?

A No, not really.

MR. SCOTT: Thank you.

THE COMMISSIONER: Mr. Meurin.

CROSS-EXAMINATION BY MR. MEURIN:

Q MR. MEURIN: Sir, I take it that the language that was directed towards the prison staff this night was foul?

A Yes, it was.

Q As a matter of fact the information I have I would categorize and say it could not get much fouler than it was, is that correct?

A Yes.

Q You mentioned cups and boots being thrown when Officer Coljee was in the west wing, is that correct?

A Yes, I did.

Q Were there any objects thrown in his direction?

A Not really in his direction.

Q I am not suggesting that --

A Onto the floor, yes.

Q I am not suggesting that he was struck but I am

objects were thrown in his direction?

A No, not really.

Q Sir, were there not rumours circulating that the west wing had knives, that there were knives in the west wing?

A There might have been but I didn't hear of any.

Q Now, you mentioned that you at one stage you said that you got tired of yelling and put your pillow over your head and stopped, is that correct?

A Yes, I did.

Q Is it not true, sir, that you stopped because you felt you pushed your limit?

A Yes, that can be.

Q Now, you also mentioned that the lights, when the main lights are out there are still several smaller lights which I would call night lights, they were on, is that correct?

A Yes, there is.

Q And these are on continuously?

A Yes.

Q And you were able to see movement in the west wing when just these lights are on?

A A certain amount of movement, yes.

Q And you had lockers at the foot of your beds?

A At the head of the bed.

Q At the head of the bed?

A Up against the walls.

Q And it would be possible for the guards to see these lockers move?

A No, not really.

Q Now sir, was Sims making any of this racket and commotion that was going on?

A Yes, he was.

Q He was participating as much as the rest of the people that were there if not the leader?

A Yes.

Q Now, you also mentioned that when he came out of the hall he used the words to the effect: "I had fuck-all to do with it.", is that correct?

A Yes.

Q That was untrue, wasn't it?

A Yes.

Q Mr. Sims was lying when he made that statement, is that correct?

A Yeah.

Q Would you characterize the situation that night as a rather ugly explosive one?

A Towards the end it was that way.

Q It looked like it could have gotten out of hand?

A Yes, it could have.

Q Sir, you have indicated that you could smell hashish that evening, is that correct?

Q I take it that at no time during the period in which you were a guest of this Institution that you had any occasion to see any of the prison staff either connive at this type of thing or take part smuggling drugs into the Institution?

A No.

Q As a matter of fact periodic searches occurred to try and find this kind of contraband?

A Yes, it did.

Q I take it sir, that the general procedure would be that the day parolees would be smuggling this stuff in?

A Not all the time.

Q It would occur on occasion?

A Yes, it would.

Q Would you consider that to be an abuse of this parole privilege?

A Yeah, I would.

Q Would another example of the way in which contraband of drugs got into the Institution would be people on temporary passes?

A Sometimes.

MR. MEURIN:

I have no further questions.

CROSS-EXAMINATION BY THE COMMISSIONER:

Q THE COMMISSIONER: Just a question or two.

Mr. Watson, you stated when you left the west wing you were handcuffed?

A Yes.

Q Were you handcuffed in the west wing or just as you left the west wing?

A When I was lying on the bed.

Q And I believe in answer to a question of Mr. Scott's you said you were handcuffed with your hands behind your back?

A Yes, I was.

Q Now, you said that you put your head underneath a pillow?

A Yes.

Q And you went back to bed, is that correct?

A Yes, prior to -- they had been in there a few times.

Q And was this just prior to you being taken out of bed and handcuffed?

A Yes.

Q Were you wearing your glasses at the time?

A No, I wasn't.

Q And were you given your glasses before you went to the hole?

A No, I wasn't.

Q May I see your glasses.

You might be interested

in these glasses, Mr. Stilwell.

MR. STILWELL: Let the record show that the glasses are fairly thick and you can note a fairly noticeable correction.

THE COMMISSIONER: Now, I put it to you witness, that without those glasses you would have difficulty seeing anything fairly distinct?

A Well, I had them off but I had them on up until that time, up until the time I put my head underneath the pillow.

Q But you went to the hole without the glasses?

A Yes, I did.

Q Now then, sir, you stated -- were you all handcuffed in the west wing?

A No, just I was.

Q Just you?

A Yes.

Q And the others were not handcuffed?

A No.

Q Sims was not handcuffed?

A No, he wasn't.

Q Now then, I take it, -- how far was Sims from you when you say you observed Schlegel striking him?

A About twenty, fifty feet.

Q Would it be the distance from us to the far wall?

A Maybe a little bit further, not much more.

Q But further than this wall to that wall, is that correct?

A Yes.

Q From the back of this room to the wall, at least that distance?

A Yes.

Q And you say that you observed that without your glasses?

A Yes.

Q Now then, with respect to the hashish, did I understand you to say that somebody from the south wing ripped the west wing off for eight ounces of hashish?

A Eight grams.

Q Eight grams. How was that ripped off, what do you mean, not paying for it?

A No, he was asked to bring it back in but he smoked it himself instead of giving it to this other guy.

Q Was he paid for it, for the eight grams?

A Who, the guy in the west wing?

Q Yes.

A No, he wasn't.

Q Now, to be fair about this, when you and Sims, what is the other fellow's name?

A Winters and Spooner.

Q In all fairness were you fellows not the leaders of

this disturbance?

A Well, not in a way -- in a way yes in a way no, everybody was just going along with --

Q Everybody got into the act?

A Yes.. In a way we probably were.

Q And so would you agree with me that perhaps then the guards might be just satisfied to take out the ring leaders?

A Well, I think they were justified in taking them out --

Q But the way they were taken out?

A Just the way they were taken out, yes.

THE COMMISSIONER: I see. Thank you very much.

MR. SCOTT: Mr. Chairman, can I ask him two or three questions?

THE COMMISSIONER: Certainly.

RE-CROSS-EXAMINATION BY MR. SCOTT:

Q MR. SCOTT: You weren't struck while you were in the west dorm, were you?

A No, after I was outside.

Q And you weren't struck as a matter of fact immediately after you got out of the west dorm, is that correct?

A Yes.

Q And as I understand it you said you were walking down

or running down the hallway towards the north wing,
is that correct?

A Yes.

Q Did you make any resistance towards that, in other
words, did you resist the movements --

A No, I didn't.

Q I take it that you were not struck while going
towards the north wing, either?

A Well, I was going towards the north wing.

Q How close to the north wing, the entrances to the
north wing?

A Well, it was before there.

Q I see. How far away would you be from the entrance
to the west wing?

A I would say maybe, halfway.

Q How far in feet would that be?

A I don't know, maybe fifty, seventy-five.

Q How much time had passed between the point that
you got handcuffed and taken out to the front and
then to where you got hit?

A I would say five minutes.

Q And had you offered any resistance at all after
you were handcuffed?

A No, I didn't.

Q So you were well out of the west wing, weren't you?

A Yes.

And they never hit you in the west wing?

No.

MR. SCOTT: That is all.

MR. PEACOCK: I think that is all,
thank you.

THE COMMISSIONER: Thank you very much.

(Witness retires from the stand)

MR. PEACOCK: Mr. Watson is working
out of town and of course has been here for two
days, may he be excused, I don't expect that he
will have to be recalled.

MR. MEURIN: No objection.

MR. STILWELL: No objection.

THE COMMISSIONER: Yes.

MR. PEACOCK: Call Daniel Winters, please.

THE CLERK: Your full name, please?

THE WITNESS: Daniel James Winters.

DANIEL JAMES WINTERS, having

first been duly sworn, examined by Mr. Peacock, testified
as follows:

Q MR. PEACOCK: Mr. Winters, where are
you presently residing?

A 1616 - 2nd Street N.W., Calgary, Alberta.

Q And you are presently working in the City of
Calgary?

A Yes.

Q You were earlier this year an inmate of the Calgary Correctional Institute?

A Yes.

Q When were you there?

A I came in August 10th and I believe I was released September 15th, '73.

Q You came in in August of '72?

A Yes.

Q What were you in for?

A Possession of stolen property.

Q What was the length of your sentence?

A One year.

Q Now, were you an inmate at the Institute July 17th of this year?

A Yes.

Q And where were you housed at that time?

A I was housed in bed 37 in the west wing.

Q I see. And next to you in bed 38 was Spooner?

A Yes.

Q And on the other side in bed 36 was Sims?

A Yes.

Q Was a fellow named Watson housed fairly close to you?

A Yes.

Q Do you know what bed number he was in?

A 40.

Q And a fellow by the name of Madsen in bed 39?

A Yes.

Q A commotion started on the night of the 17th, July 17th in the west wing?

A Yes.

Q Can you tell me how that got going?

A The lights went off at 9:45 and usually they go off at ten o'clock and the radio was also too and I don't know, someone was supposed to go and get it turned on, and someone nearby said: "Let's make a rucus" -- like I was still in my bed, we finished a poker game and I went to bed and we backed up the thirty days, guys in doing thirty days, small-time and the guys doing long-time backed them up.

Q May I keep interjecting you because some of your terms might need clarification. You indicated that someone was supposed to have gone up and asked to have the radio on?

A Yes.

Q Do you know who that was?

A No.

Q Do you know who the fellow was that you heard say "Let's make a rucus"?

A No, I don't but I know it was nearby, in the area where I was bedded at the time. ..

Q All right. What occurred?

A Like, we banged them up, like, we made noise

Banging the lock in.

Q What time was this, the thirty-day offense?

A Yes, just the young guys, doing small-time.

Q What were they doing?

A They were just banging on the lockers and saying "Turn the lights on", you know, and the radio set so they turned it back on and that was all right for five minutes and left them on and they kept it up and they turned them back off again so in about another five seconds they started up again so they kept it up and I decided "Well, this it, I can't take anymore of this because I was about to be out shortly anyways" so a few of us decided the heck with this business, we'll give up and just let it go on so I guess there was about five minutes at the very most after that there was about eight or nine guards that I could see, like, I had my glasses off so I couldn't see too well but there was eight or nine guards up front.

Q Now, before these eight or nine guards arrived were there other guards that came into see what was going on?

A I don't know because I didn't look up at the front.

Q But when the radio didn't go on the first time the noise started you say that this was amongst the younger fellows?

A Yes.

Q And the older fellows then themselves started in?

A Yes.

Q What were you making noise with?

A Just our boots, lockers, beds.

Q Were you hitting them?

A Yes.

Q Were you yelling at all?

A Yes.

Q Were you yelling specifically?

A Yeah, I was in the group.

Q You were all having a shouting match?

A Yes.

Q What were you yelling at?

A Turn the lights and radio back on.

Q Were you saying anything other than that?

A No, not that I know of. It was pretty muddled jumbled.

Q I gather there was quite a bit of noise, would you have been able to sleep during this noise?

A No.

Q And most of this was fellows yelling and banging on their lockers with their boots?

A Yes.

Q Now, I believe that you just indicated that you don't recall guards coming in to see what was going

Q.

A Not at this time. Guards came in the first officer Lynch, he came down the end of our side and we have our own card table and he had his foot up on the bench facing towards the west wing.

Q Was the banging and noise still going on while he was there?

A No, it completely quieted right down.

Q Was anybody saying anything to Mr. Lynch?

A No, not that I know of, I'm not positive, no.

Q What happened next?

A He went back up to the front and they started cutting up Officer Coljee like, using language.

Q Who is Coljee?

A He used to work on the work parties, the work party boss for outside.

Q Was he in the wing at that time?

A He came down after, he was between Sims and my bed when they were calling him names, they were still cutting him up.

Q What were they saying to him?

A Should I?

THE COMMISSIONER: Yes.

A Bastard, prick, etcetera, etcetera.

Q MR. PEACOCK: Well, go ahead, what were they yelling at Coljee?

A Mother-fucker and everything else that I can think of.

Q They were using profane language, were they?

A Yes.

Q What was Coljee doing?

A Well, he stood there and then went down the end on our side and then back up.

Q Was he apparently looking to see who was making these comments about him?

A He was looking around but I don't know if he was looking at any one person.

Q Well, Coljee was there while the banging on the lockers and the noise kept up?

A No, it died right down.

Q Well, when Coljee was there all that happened was the yelling of profane things at him?

A Yes.

Q And there was more profanities that you told us about?

A Yes.

Q What did Mr. Coljee do at that time?

A He went back up to the front and that is like, the last time I seen him until he came down to get us.

Now, from the guard area, like, say within two or three beds around where I was, like I grabbed my magazine and started reading, like, I said that

this is too much to handle I knew something was going to happen, someone yelling you guys get to the door and you are going to get it and then the place quieted right up.

Q So some inmate yelled this?

A Yeah.

Q And it was somewhere in your area?

A Not far from me.

Q Do you know who it was?

A No, I don't.

Q And he yelled something, did he?

A Yeah.

Q Who did he yell at?

A He said: "Anyone of those guards steps through this grill or bar they are going to get it", and the place quieted down and you could hear a pin drop.

Q Was there a guard going in or coming out that he was yelling at?

A No, not that I know of.

Q And then the place quieted down?

A Yes.

Q Then what happened?

A Oh, maybe a minute at the most they came through.

Q How many?

A About eight or nine guards.

Q The noise started up again?

A Yes.

Q So you say the noise quieted down completely after this fellow yelled "Any guards that come in they are going to get it"?

A Yes.

Q And the guards came in?

A Yes.

Q What did you observe then?

A Deputy Warden Merriam and Schlegel went to Sims bed which is bed 36 and told him to get out of bed and then as Merriam went to get him Schlegel moved in and hit him twice to get out of bed but Sims couldn't get out of bed because his bed was too lucked in underneath.

Q Okay. So Sims was in bed, was he?

A Yes.

Q Had he been pounding on his locker with the rest of you?

A Yes.

Q And you say Schlegel and Merriam approached Sims' bed?

A Yes.

Q And told him to get up?

A Yes.

Q Now, was it Merriam that told him or Schlegel?

A It was Merriam first and then Schlegel.

Q But he didn't get out of bed because his bed was turned in?

A He couldn't get up quick enough.

Q And then what happened?

A Well, he got out of bed, he got hit twice, and --

Q What was he hit with?

A The billy.

Q I would like you to take a look in that box and tell me if you can see the type of billy he got hit with?

A About that size, I'm pretty sure.

Q What is the Exhibit number on it?

THE CLERK: Exhibit 36.

Q MR. PEACOCK: So the billy that you saw Sims get hit with resembles Exhibit 36?

A Yes.

Q And where did Mr. Schlegel hit Mr. Sims?

A On the shoulders.

Q Was he lying on his back or on his front?

A Well, he was sort of sitting up in his bed, he had his feet like this.

Q Where was Mr. Schlegel?

A On the other side of his bed, on the other side like on that side there.

Q How did he hit him?

A Just on the shoulders, once here and once here.

Q Was he in front of him when he hit him?

A Yes, he did get up.

Q Did Sims say anything to Schlegel at this time?

A Yes, he did "I'll get out of bed, I'll get out of bed".

Q Was anybody hollering, perhaps the term sounds too mild, was anybody yelling dirty words at the guards at this time?

A No, the place was completely quiet.

Q And you heard Sims say "I'm getting out of bed, I'm getting out of bed", or something of that nature?

A Yes.

Q Did he get up?

A Yes.

Q Tell me what happened then?

A He went down to the guard's cubicle of the west wing.

Q What happened with you, though, what happened to you?

A Officer Coljee was standing in front of my bed and I can't remember if it was Schlegel or Deputy Warden Merriam and one of them, I can't remember which one -- well, I asked him if I should go and they said, one of them said, okay and so I went along.

Q You were up, were you?

A Yes.

Q And did you have your glasses on?

A No.

Q Do you wear contacts?

A No.

Q Do you have glasses on now?

A No.

Q So you walked up to the front as well?

A Yes.

Q And Spooner and Winters joined you?

A Watson, yes.

Q Did you see them get out of bed?

A Yes, Officer Dewar put the handcuffs on Watson and he went up to the front and Spooner went up to the front.

Q Did you see Spooner get taken out of bed or anything?

A No, he got up voluntarily.

Q What happened when he got up to the front?

A Well, the guard come back and he was standing at the coffee table, inside of the grill area, it is still outside of the grill in the west wing.

Q Right beside the guard cubicle?

A Across from it.

Q What happened?

A That is where I got hit.

Q Well, tell me what happened, you were walking, were you?

A Yes, I was standing, he said to stand there, one of

the man: I don't remember exactly who it was but he said to stand there and so I stood there and the other three people were standing there and then Officer Schlegel comes in the door and he hit me with the billy and then said "Get moving", and we started out the door.

Q Where did he hit you?

A Just on the shoulders.

Q Was he facing you?

A Yes.

Q Did he hit you twice?

A Five times.

Q I see. What were you doing?

A I turned around then, like, I laughed at him and left.

Q Did you laugh at him after he hit you with the billy?

A Yes.

Q Did he hit you hard?

A No, not really.

Q He was just tapping you, was he?

A Yes.

Q Did he hit you hard enough to bruise you or injure you in any way?

A No.

Q So when you say he hit you with the billy, he was

of hitting you, was it?

A Yes.

Q You didn't have any bruises or injuries as a result of that?

A No.

Q And you indicated that you laughed at him and turned around and started down the hall?

A Yes.

Q What happened then?

A We were out the door and there is a beam outside of the door, I think it's six feet away from the door down the hall, I think it's holding up the wall and part of the ceiling and that is where Sims got it.

Q All right, what happened to him?

A He told him to get moving and he said "Okay, okay" and he got hit on the shoulders again.

Q Where were you when he was struck?

A No more than four feet away, like, going towards the guard's room.

Q Where was Watson at this time?

A Watson was ahead of me and so was Spooner.

Q So Watson and Spooner went first?

A Yes.

Q And then you?

A Yes.

Q Were there any guards ahead of you?

A No, they were behind me.

Q And you were walking toward him, were you?

A Yes.

Q And Sims was behind you?

A Yes.

Q And what threw your attention to Sims?

A Oh, he said: "Okay, okay, I'm moving", and I turned around to look and that is where he got hit.

Q What did you see?

A He hit him on the shoulders and gave him a push and he moved along.

Q Was he hitting him on the back of the shoulders or on the front?

A On the front, I believe.

Q Was Sims moving or was he standing there when Schlegel was hitting him?

A He was standing.

Q Was it Schlegel that was hitting him?

A Yes.

Q How many times did he hit Sims?

A Five.

Q Did you hear Sims say anything else to Officer Schlegel at that time?

A "Okay, okay, I'm moving".

Q Do you recall him saying something to the effect, "I had fuck-all to do with it"?

A No.

Q You didn't hear that?

A No.

Q Did you see what Sims and Officer Schlegel were doing prior to you turning around seeing Mr. Schlegel hitting Sims?

A No, I didn't.

Q All you heard was: "Okay, okay, I'm moving"?

A Yes.

Q And you turned around and saw Schlegel hit Sims about five times?

A Yes.

Q And he hit him on the shoulders, is that correct?

A Yes.

Q Would he have been facing him when he hit him?

A Yes, he would be.

Q And I take it that he hit him about the same position, he would be in the same position that he was hitting you?

A Yes.

Q Was he hitting Sims any harder than he hit you?

A No, I don't think so.

Q When Schlegel hit you with a club, back when you were just coming out past the cubicle did it hurt when he was hitting you?

A No.

Q So when you were hit with this billy stick on your way out was he coaxing you to make you move, was he hitting you with it or what was he doing?

A Hitting me with it.

Q But he wasn't hitting you hard enough to hurt you?

A No.

Q And telling you to get going?

A Yes.

Q And is that in essence what you saw him do to Sims?

A Yes.

Q Now, I take it that you all started to move then?

A Yes.

Q Did they have you running down there?

A Trotting.

Q Trotting. How were you all dressed?

A Three of us had undershorts on and Watson had nothing on.

Q And when they got you down to the hole, down to the meditation cells, did they?

A Yes.

Q What did you observe when you got down there?

A They told us to get into the cell, like Officer Schlegel and Officer Dewar and Officer Coljee, that is all I seen then.

Q Did you see anyone else get hit while you were there?

A No.

Q Were you struck aside from the time that you were struck past the guard's cubicle?

A No.

Q I take it that you didn't get any medical attention for any injuries as a result of being hit with this club?

A No.

Q In fact you told us that it didn't hurt?

A No.

MR. PEACOCK: Those are all the questions that I have.

THE COMMISSIONER: Mr. Stilwell, it's almost four thirty, do you want to adjourn your cross-examination until tomorrow?

MR. STILWELL: Yes, please, my lord, until tomorrow morning.

THE COMMISSIONER: Thank you.

(Hearing concludes - October 13th, 1973)
